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FEB 01 2006

TECHNOLOGY CENTER 3600

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In re Application of	:	DECISION ON PETITION
Judith C. Blackwell-Thompson et al.	:	TO WITHDRAW THE
Application No. 10/730,566	:	HOLDING OF
Filed: December 8, 2003	:	ABANDONMENT

For: SYSTEM AND METHODS FOR INTEGRATING A PAYLOAD WITH A
LAUNCH VEHICLE

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on May 4, 2005 and a Supplemental Petition to Withdrawal the Holding of Abandonment filed on January 20, 2006.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed September 22, 2004, which set a three-month shortened statutory period. No response was received and a Notice of Abandonment was mailed on April 26, 2005.

Petitioner contends that a response was filed on December 22, 2004. In support thereof, petitioner submits, a copy of the response and a copy of a transmittal form which includes a certificate of mailing dated December 22, 2004. The transmittal form indicates that an amendment is included.

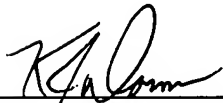
Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following:

- (1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

The petition included a copy of the original response and a transmittal form with a certificate of mailing including the date of signing and a statement by Elizabeth D. Odell which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since this application was abandoned for failure to timely reply to the nonfinal Office action of September 22, 2004, the Examiner had no procedural authority with respect to the abandoned application. See *Lorenz v. Finkl*, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the holding of abandonment. Nevertheless, in view of this decision on petition, the subsequent actions taken by the examiner, i.e., Final rejection (9/9/2005) and Advisory Action (11/29/2005), have been ratified. In view thereof, it is unnecessary to either vacate or remail the Final rejection and Advisory Action.



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KJD/bkg: 1/31/06